

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P. NO. 32496 of 1998

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DATED: 30-03-2007

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Between:-

V.Indira w/o late V. Christopher, aged 50 years, occ: Household, R/o
17/96, Ramakrishnapuram, Chirala, Prakasam District and another.

...PETITIONER

And

The Chief Executive Officer, A.P. Khadi and Village Industries Board,
Humayunnagar, Hyderabad and three others.

...RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P. NO. 32496 of 1998

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ORDER
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This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in issuing Public Auction Notice vide R.C. No. R1/PKM/RR/1/98, dated 30-09-1998 and Paper Notification No. RCRI/PKM/RR/1/98, dated 05-11-1998 for sale of wet land to an extent of Ac.1.00 in Sy. No. 52-2B, and house site with old house without roof in an extent of 0.13 cents in Sy. No. 334,3A/1A for recovery of an amount of Rs. 1,65,974/- due as on 31-7-1998 to the first respondent as mortgaged the said property as violative of principles of natural justice and also consequently direct the respondents to set aside the public auction notice Rc. No. R1/PKM/RR/1/98, dated 30-9-1998, and the paper notification Rc. No. RCRI/PKM/RR/1/98, dated 5-11-1998.

It is the case of the petitioners that the first petitioner is wife and the second petitioner is daughter of late V. Christopher. Late V. Christopher started Hand made paper unit under small-scale industry with the help of 14 labourers and unfortunately he died on 9-4-1991 leaving the petitioners herein. The second respondent issued a demand notice in the name of her late husband on 29-9-1997 to pay the sum of Rs. 1,49,109/- towards due taken from the A.P. Khadi and Village Industries Board including interest within 30 days from the date of receipt of the notice. The first respondent in his

proceedings No. HMP/D2,Prakasam/68-69/97 dated 4-11-1997 stated that late V.Christopher was sanctioned and released a loan of Rs.1,00,000/- towards Hand Made Paper Unit under Hand Made Paper Industry in the year 1987-88 and 1988-89 and in view of the above the above individual is reclassified as 'defunct' and the matter was referred to the District Collector, Prakasam District under the provision of the A.P. Revenue Recovery Act, 1864 to recover a sum of Rs.1,49,109/- towards outstanding amount together with normal and penal interest as on the date by the society. It is the further case of the petitioners that the Recovery Officer, Board office shall initiate action for recovery of Board dues under the provisions of A.P.R.R.Act. The respondent No.4 issued Auction Notice vide R.C. No. RI/PKM/RR/1/98, dated 30-09-1998 giving the particulars of the schedule of wet land in Sy.No.52/2B to the extent of Ac.1.00 cents and house site with an old house without roof to the extent of Ac. 0-13 cents Sy.No.334, 3A/1A, situated at Devangapuri village, Chirala and the date of auction and time was also mentioned in the notice as 26-11-1998 at 11.00 AM and the total amount of Rs.1,65,974/- is fallen due as on 31.7.1998 to be recovered as per A.P. R.R. 1864. The respondent No.4 also issued a paper notification for public auction vide R.C.R.I./PKM/RR/1/98, dated 5-11-1998 stating that her husband mortgaged the land in Sy.No. 52/2 to the extent of Ac.1.00 cents, Cirala (Devangapuri) Sy.No. 334/3/A/1A to the extent of Ac. 0.13 cents house site has been mortgaged and the auction would take place at 11.00 AM before the office of Mandal Revenue Officer on 26-11-1998. It is the further case of the petitioners that the particulars of the mortgage in Sy.No.52/2 to the extent of Ac.1.00 cents of wet land, Cirala (Devangapuri) Sy. No. 334/3A/1A to the extent of Ac.0-13 cents are not known to them, but they submit that the patta in Rc.No.543/DK.77

granted on 7-2-1967 by the then Tahsildar, Bapatla in Sy.No.334/3A/1A to an extent of Ac.0.13 cents of house site is an assigned land granted in favour of her late husband. Hence, the action of the respondents in issuing the notice for public auction dated 30-9-1998 and also paper notification dated 05-11-1998 is violative of principles of natural justice as the said land in Sy.No.52/2B of wet land to the extent of Ac.1.00 cents and also in Sy.No. 334.3A/1A to an extent of Ac. 0.13 cents of house site with old house without roof is an assigned land. Hence the present writ petition.

In fact, a counter-affidavit is also filed, wherein it is clearly stated that the land in question was an assigned land and as per the proviso the sale cannot be held. It is also stated in the counter affidavit that the Revenue Department did not confer any sale having regard to the prohibition provided for under Section 2(1) read with Section 6 of the A.P. Assigned Land (Prohibition of Transfers) Act, 1977.

In the light of the said submission, this Court is of the view that the writ petition can be allowed and the public auction notice Rc.No. RI/PKM/RR/1/98, dated 30-09-1998 and the Paper Notification No. RCRI/PKM/RR/1/98, dated 5-11-1998 are hereby set aside.

In the result, the writ petition is allowed and the public auction notice Rc.No. RI/PKM/RR/1/98, dated 30-09-1998 and the Paper Notification No. RCRI/PKM/RR/1/98, dated 5-11-1998 issued by the respondents are hereby set aside. No costs.

GOPALA KRISHNA TAMADA,J

Dated: 30-03-2007

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